

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DONALD NIXON

INITIAL SCHEDULING ORDER

Plaintiff(s),

18 -CV- 5913 (ARR) (VMS)

-against-

WOLFORD AMERICA, INC.

Defendant(s)

Upon consent of the appearing parties and their counsel, it is hereby **ORDERED** as follows:

- 1) Defendant(s) shall answer or otherwise move with respect to the complaint by April 11, 2019.
- 2) Automatic disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure must be completed by May 10, 2019, if not yet completed.
- 3) Initial document requests and interrogatories will be served no later than June 7, 2019.
If the parties intend to issue interrogatories, they will serve no more than 25 interrogatories. The parties are aware that the presumptive cap on the number of interrogatories is 25, including subparts.
- 4) No additional parties may be joined after April 30, 2019. By this date, the parties may either stipulate to the addition of new parties or commence motion practice for joinder in accordance with the Individual Rules of the District Judge assigned to this case.
- 5) No amendment of the pleadings will be permitted after April 30, 2019 unless information unknown to the parties by this date later becomes available to them. By this date, the parties

may either stipulate to the amendments of the pleadings or commence motion practice for leave to amend the pleadings in accordance with the Individual Rules of the District Judge assigned to this case.

- 6) Fact discovery closes August 30, 2019.

Note: Treating physicians who may be called as witnesses, including as expert witnesses, should generally provide their reports or summaries and be deposed during the fact discovery period.

- 7) As to expert disclosures,

a) The names, qualifications and area(s) of expertise of initial experts shall be served on or before August 30, 2019.

b) Initial expert witness reports shall be served on or before Sept. 30, 2019.

c) Rebuttal expert witness reports shall be served on or before Oct. 30, 2019.

- 8) All discovery, including any depositions of experts, shall be completed on or before Dec.23, 2019.

(Generally, this date must be no later than 9 months after the initial conference.)

- 9) On or before Dec.30, 2019, the parties must file on ECF a joint letter confirming that discovery is concluded.

- 10) Any dispositive motion practice must be commenced by Jan 29, 2019, within 30 days of the close of all discovery.

Parties must consult the Individual Rules of the District Judge assigned to this case to determine, *inter alia*, if a pre-motion conference letter is required before a dispositive motion is filed, whether a Local Rule 56.1 statement must be submitted with the motion and whether such a motion must be “bundled.”

- 11) A proposed joint pre-trial order must be filed (or if required by the District Judge, a scheduling date must be requested) by Feb. 28, 2020, within 60 days of the close of fact discovery.

This date is not stayed during any dispositive motion practice unless ordered by the District Judge assigned to this case or permitted by the District Judge’s Individual Rules.

12) Do the parties consent to trial before a magistrate judge pursuant to 28 U.S.C. § 636(c)?

a) No x Do **NOT** indicate which party has declined to consent.

b) Yes _____

If yes, fill out the AO 85 (Rev. 01/09) Notice, Consent, and Reference of a Civil Action to a Magistrate Judge Form and file it on the Court's ECF system. See <http://www.uscourts.gov/FormsAndFees/Forms/CourtFormsByCategory.aspx>

13) A discovery status telephone conference/an in-person Status Conference is set for

_____ at _____ a.m. ____ p.m. If a telephone conference is scheduled, the conference call will be arranged and initiated by Plaintiff or Defendant (circle one) to Chambers at 718 613 2300. A joint discovery status letter must be filed on ECF by _____ in preparation for the conference. *The Court will schedule these dates.*

14) A final pre-trial conference is set for _____. *The Court will schedule this date.*

15) The parties may wish to engage in settlement discussions. To facilitate this process, Plaintiff(s) agree(s) to make a demand on or before April 11, 2019 and Defendant(s) agree(s) to respond to the demand on or before April 11, 2019.

After the parties have exchanged a demand and response, the Parties may request a settlement conference by filing on ECF a letter that requests a conference and informs the Court of at least three dates when all counsel and all parties with decision-making authority (including, if necessary, insurance representatives) are available for an in-person conference. The parties will be required to submit an ex parte settlement statement letter a week before the conference.

16) Any additional matters:

This scheduling order may be altered or amended only upon a showing of good cause

based on circumstances not foreseeable as of the date hereof.

Dated: Brooklyn, New York

VERA M. SCANLON
UNITED STATES MAGISTRATE JUDGE

CONSENTED TO BY COUNSEL:

Signature: /s/Jonathan Shalom

Name: Jonathan Shalom

Attorney for Plaintiff(s)

Address: 124-04 Metropolitan Avenue, Kew Gardens, NY 11374

E-mail: jshalom@jonathanshalomlaw.com

Tel.: (516) 807-1748

Fax:

Signature: Daniella Adler

Name: Daniella Adler

Attorney for Defendant(s)

Address: 900 Third Avenue, NY, NY 10022

E-mail: dadler@littler.com

Tel.: (212) 583-9600

Fax:

(Additional counsel should provide the same information.)